

**IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF WEST VIRGINIA
AT BECKLEY**

UNITED STATES OF AMERICA

v.

CRIMINAL NO. 5:11-00038

HUGHIE ELBERT STOVER

**UNITED STATES MOTION FOR BRIEF CONTINUANCE
OF PRETRIAL MOTIONS HEARING AND TO EXTEND TIME
FOR FILING RESPONSES TO PRETRIAL MOTIONS**

Comes now the United States of America by Philip H. Wright, Assistant United States Attorney for the Southern District of West Virginia, and files this Motion for Brief Continuance of Pretrial Motions Hearing and to Extend Time for Filing Responses to Pretrial Motions. As grounds for this Motion, the United States offers the following:

1. The Court's Arraignment Order of May 24, 2011, established a deadline of June 21, 2011, for filing pretrial motions. The Arraignment Order also set the pretrial motions hearing in this case for June 28, 2011, at 1:30 p.m. in Beckley.

2. On June 21, 2011, defendant Stover filed five motions: (a) a motion to suppress defendant's statements; (b) a motion in limine to exclude defendant's statements; (c) a motion in limine to exclude evidence, testimony, or reference to the April 5, 2010 tragedy at the Upper Big Branch Mine; (d) a motion for a jury questionnaire; and (e) a motion to dismiss Counts One and Two of

the Superseding Indictment. The motions raise substantial issues, and the motion to dismiss Counts One and Two is over twenty pages long and contains extensive argument about various issues. The United States filed two motions in limine to exclude certain evidence.

3. The Local Rules of Criminal Procedure provide the United States seven days to respond to a defendant's pretrial motions. LR Cr. P. 12.1(c). Seven days from the date defendant Stover filed his pretrial motions is June 28, the same date as the pretrial motions hearing.

4. The lead prosecutor on this case, Assistant United States Attorney (AUSA) Blaire Malkin, is currently out of the Office through Friday, June 24, 2011, attending training. The training is necessary because Ms. Malkin will be filling a position in the Office that will be vacated due to the imminent retirement of another AUSA. This training was available only this week.

5. The United States requests additional time to prepare thorough written responses to defendant Stover's motions and a brief continuance of the pretrial motions hearing to allow adequate time for the Court to review the responses. Therefore, the United States seeks an extension of time, up through and including Friday, July 1, 2011, within which responses may be filed to the pretrial motions filed on June 21, 2011, and a continuance of the pretrial motions hearing until July 5, 2011.

6. Counsel for defendant Stover, William D. Wilmoth, Esq., has informed the United States that there is no objection to this Motion. The United States would have no objection to allowing defendant Stover until July 1, 2011, to respond to the two motions in limine filed by the United States.

WHEREFORE, the United States respectfully requests this Court to continue the pretrial motions hearing in this case from June 28, 2011, until July 5, 2011, and to extend the time within which the parties have to respond to pretrial motions through and including July 1, 2011.

Respectfully submitted,

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CERTIFICATE OF SERVICE

It is hereby certified that service of the foregoing "UNITED STATES MOTION FOR BRIEF CONTINUANCE OF PRETRIAL MOTIONS HEARING AND TO EXTEND TIME FOR FILING RESPONSES TO PRETRIAL MOTIONS" has been electronically filed and service has been made on opposing counsel by virtue of such electronic filing on this 22nd day of June, 2011, to:

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